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July 7, 2024

VIA EMAIL

Honorable Sidney H. Stein
United States District Judge
Southern District of New York
500 Pearl Street, Courtroom 23A
New York, New York 10007

**Re: United States of America v. Menendez, et al.,
Dkt. No. 23-cr-490-SHS**

Dear Judge Stein:

As the Court is aware, counsel for Mr. Hana has been working, with the kind assistance of the Government, to obtain visas for certain witnesses on behalf of the defense to travel to the United States, without prejudice to the Government's motion (now granted in large part) to preclude the testimony of these witnesses. On Wednesday last week, however, the Court denied the Government's motion as to one of those witnesses who was abroad, permitting the defense to call IS EG "Employee Number 2." *See July 3, 2024 Tr. 6063:25 – 6063:19* ("The government's position that there is already evidence in the record in regard to [the matters about which the witness would testify], it seems to me doesn't prohibit Hana from presenting his evidence. He's entitled to put on his own evidence. So, again, I think it's appropriate that number 2, employee number 2 can testify about the audits and IS EG's qualifications and lack of qualifications of the others.").

That witness is Dr. Moustafa Hussein Sayed. Dr. Sayed applied for a visa at the U.S. embassy in Cairo, and his application was approved on June 10, 2024. A copy of Dr. Sayed's application ID and approved status is attached to this letter as Exhibit A. For some unexplained reason, and despite having received indications that it would be, either late last week or perhaps today, we are disappointed to report to Your Honor that the visa has still not issued to Dr. Sayed. Accordingly, Mr. Hana will be unable to call Dr. Sayed for in person testimony tomorrow morning when court resumes. Given the circumstances and, although as we reported last week, we understand that the Government opposes this application, we are constrained to request that Mr. Sayed be permitted to provide his very brief testimony by video-link using such technology as may be available to the Court and counsel for this purpose. This relief is appropriate given Your Honor's warning that if we do not have a witness available, we will be required to rest following our presentation of various stipulations, especially given the timeliness with which Dr. Sayed applied (and received authorization) for his visa.

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As noted, we have previously conferred with the Government and understand that they are unwilling to consent to live video testimony for these witnesses despite having previously (i) consented to video testimony for Ambassador Cohen should Senator Menendez have called him as part of his defense case, and (ii) participated in Rule 15 depositions for Michael Critchley and Senator Corey Booker, the former of which was already played for the jury in this case last week.

Counsel is available to provide any additional information that the Court desires or to coordinate with the Court and the other parties regarding any technical requirements that may be necessary to procure this live testimony virtually. We thank the Court for its kind consideration of this important matter.

Respectfully submitted,

s/ Lawrence S. Lustberg

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